

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	5

MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1213, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 3, delete line 29.
- 2 Page 3, line 34, delete "after" and insert "**before**".
- 3 Page 4, line 25, after "inquiry" insert ":
- 4 (i)".
- 5 Page 4, line 25, after "initiated" insert "**by the consumer;**".
- 6 Page 4, line 25, after "or" begin a new line triple block indented and
- 7 insert:
- 8 "(ii)".
- 9 Page 4, line 27, delete "An" and insert "**A credit**".
- 10 Page 4, between lines 39 and 40, begin a new line block indented
- 11 and insert:
- 12 "**(9) Take an adverse action based on credit information if the**
- 13 **insured has:**
- 14 (A) continuously maintained a personal insurance policy
- 15 issued by the insurer;
- 16 (B) had no claim loss on the personal insurance policy

1 specified in clause (A); and
 2 (C) had no moving traffic violations;
 3 during the two (2) years immediately preceding the date on
 4 which the insurer intends to take the adverse action."

5 Page 5, line 39, delete "15 U.S.C. 1681m(a)l;" and insert "**15 U.S.C.**
 6 **1681m(a);**".

7 Page 5, line 42, delete "(a)" and insert "(a)(2)".

8 Page 6, line 3, delete "at least the" and insert "**all factors up to**".

9 Page 7, between lines 7 and 8, begin a new paragraph and insert:
 10 "**Sec. 23. A violation of this chapter by an insurer is an unfair**
 11 **and deceptive act and practice in the business of insurance under**
 12 **IC 27-4-1-4.**

13 SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.130-2002,
 14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair
 16 methods of competition and unfair and deceptive acts and practices in
 17 the business of insurance:

18 (1) Making, issuing, circulating, or causing to be made, issued, or
 19 circulated, any estimate, illustration, circular, or statement:

20 (A) misrepresenting the terms of any policy issued or to be
 21 issued or the benefits or advantages promised thereby or the
 22 dividends or share of the surplus to be received thereon;

23 (B) making any false or misleading statement as to the
 24 dividends or share of surplus previously paid on similar
 25 policies;

26 (C) making any misleading representation or any
 27 misrepresentation as to the financial condition of any insurer,
 28 or as to the legal reserve system upon which any life insurer
 29 operates;

30 (D) using any name or title of any policy or class of policies
 31 misrepresenting the true nature thereof; or

32 (E) making any misrepresentation to any policyholder insured
 33 in any company for the purpose of inducing or tending to
 34 induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the**
 35 **policyholder's** insurance.

36 (2) Making, publishing, disseminating, circulating, or placing
 37 before the public, or causing, directly or indirectly, to be made,
 38 published, disseminated, circulated, or placed before the public,

1 in a newspaper, magazine, or other publication, or in the form of
2 a notice, circular, pamphlet, letter, or poster, or over any radio or
3 television station, or in any other way, an advertisement,
4 announcement, or statement containing any assertion,
5 representation, or statement with respect to any person in the
6 conduct of ~~his~~ **the person's** insurance business, which is untrue,
7 deceptive, or misleading.

8 (3) Making, publishing, disseminating, or circulating, directly or
9 indirectly, or aiding, abetting, or encouraging the making,
10 publishing, disseminating, or circulating of any oral or written
11 statement or any pamphlet, circular, article, or literature which is
12 false, or maliciously critical of or derogatory to the financial
13 condition of an insurer, and which is calculated to injure any
14 person engaged in the business of insurance.

15 (4) Entering into any agreement to commit, or individually or by
16 a concerted action committing any act of boycott, coercion, or
17 intimidation resulting or tending to result in unreasonable
18 restraint of, or a monopoly in, the business of insurance.

19 (5) Filing with any supervisory or other public official, or making,
20 publishing, disseminating, circulating, or delivering to any person,
21 or placing before the public, or causing directly or indirectly, to
22 be made, published, disseminated, circulated, delivered to any
23 person, or placed before the public, any false statement of
24 financial condition of an insurer with intent to deceive. Making
25 any false entry in any book, report, or statement of any insurer
26 with intent to deceive any agent or examiner lawfully appointed
27 to examine into its condition or into any of its affairs, or any
28 public official to which such insurer is required by law to report,
29 or which has authority by law to examine into its condition or into
30 any of its affairs, or, with like intent, willfully omitting to make a
31 true entry of any material fact pertaining to the business of such
32 insurer in any book, report, or statement of such insurer.

33 (6) Issuing or delivering or permitting agents, officers, or
34 employees to issue or deliver, agency company stock or other
35 capital stock, or benefit certificates or shares in any common law
36 corporation, or securities or any special or advisory board
37 contracts or other contracts of any kind promising returns and
38 profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance.

1 Nothing in clause (A), (B), or (C) shall be construed as making or
2 permitting any excessive, inadequate, or unfairly discriminatory
3 charge or rate or any charge or rate determined by the department
4 or commissioner to meet the requirements of any other insurance
5 rate regulatory law of this state.

6 (8) Except as otherwise expressly provided by law, knowingly
7 permitting or offering to make or making any contract or policy
8 of insurance of any kind or kinds whatsoever, including but not in
9 limitation, life annuities, or agreement as to such contract or
10 policy other than as plainly expressed in such contract or policy
11 issued thereon, or paying or allowing, or giving or offering to pay,
12 allow, or give, directly or indirectly, as inducement to such
13 insurance, or annuity, any rebate of premiums payable on the
14 contract, or any special favor or advantage in the dividends,
15 savings, or other benefits thereon, or any valuable consideration
16 or inducement whatever not specified in the contract or policy; or
17 giving, or selling, or purchasing or offering to give, sell, or
18 purchase as inducement to such insurance or annuity or in
19 connection therewith, any stocks, bonds, or other securities of any
20 insurance company or other corporation, association, limited
21 liability company, or partnership, or any dividends, savings, or
22 profits accrued thereon, or anything of value whatsoever not
23 specified in the contract. Nothing in this subdivision and
24 subdivision (7) shall be construed as including within the
25 definition of discrimination or rebates any of the following
26 practices:

27 (A) Paying bonuses to policyholders or otherwise abating their
28 premiums in whole or in part out of surplus accumulated from
29 nonparticipating insurance, so long as any such bonuses or
30 abatement of premiums are fair and equitable to policyholders
31 and for the best interests of the company and its policyholders.

32 (B) In the case of life insurance policies issued on the
33 industrial debit plan, making allowance to policyholders who
34 have continuously for a specified period made premium
35 payments directly to an office of the insurer in an amount
36 which fairly represents the saving in collection expense.

37 (C) Readjustment of the rate of premium for a group insurance
38 policy based on the loss or expense experience thereunder, at

- 1 the end of the first year or of any subsequent year of insurance
 2 thereunder, which may be made retroactive only for such
 3 policy year.
- 4 (D) Paying by an insurer or agent thereof duly licensed as such
 5 under the laws of this state of money, commission, or
 6 brokerage, or giving or allowing by an insurer or such licensed
 7 agent thereof anything of value, for or on account of the
 8 solicitation or negotiation of policies or other contracts of any
 9 kind or kinds, to a broker, agent, or solicitor duly licensed
 10 under the laws of this state, but such broker, agent, or solicitor
 11 receiving such consideration shall not pay, give, or allow
 12 credit for such consideration as received in whole or in part,
 13 directly or indirectly, to the insured by way of rebate.
- 14 (9) Requiring, as a condition precedent to loaning money upon the
 15 security of a mortgage upon real property, that the owner of the
 16 property to whom the money is to be loaned negotiate any policy
 17 of insurance covering such real property through a particular
 18 insurance agent or broker or brokers. However, this subdivision
 19 shall not prevent the exercise by any lender of ~~its or his~~ **the**
 20 **lender's** right to approve or disapprove of the insurance company
 21 selected by the borrower to underwrite the insurance.
- 22 (10) Entering into any contract, combination in the form of a trust
 23 or otherwise, or conspiracy in restraint of commerce in the
 24 business of insurance.
- 25 (11) Monopolizing or attempting to monopolize or combining or
 26 conspiring with any other person or persons to monopolize any
 27 part of commerce in the business of insurance. However,
 28 participation as a member, director, or officer in the activities of
 29 any nonprofit organization of agents or other workers in the
 30 insurance business shall not be interpreted, in itself, to constitute
 31 a combination in restraint of trade or as combining to create a
 32 monopoly as provided in this subdivision and subdivision (10).
 33 The enumeration in this chapter of specific unfair methods of
 34 competition and unfair or deceptive acts and practices in the
 35 business of insurance is not exclusive or restrictive or intended to
 36 limit the powers of the commissioner or department or of any
 37 court of review under section 8 of this chapter.
- 38 (12) Requiring as a condition precedent to the sale of real or

personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket

1 relates.

2 (14) Refusing, because of the for-profit status of a hospital or
3 medical facility, to make payments otherwise required to be made
4 under a contract or policy of insurance for charges incurred by an
5 insured in such a for-profit hospital or other for-profit medical
6 facility licensed by the state department of health.

7 (15) Refusing to insure an individual, refusing to continue to issue
8 insurance to an individual, limiting the amount, extent, or kind of
9 coverage available to an individual, or charging an individual a
10 different rate for the same coverage, solely because of that
11 individual's blindness or partial blindness, except where the
12 refusal, limitation, or rate differential is based on sound actuarial
13 principles or is related to actual or reasonably anticipated
14 experience.

15 (16) Committing or performing, with such frequency as to
16 indicate a general practice, unfair claim settlement practices (as
17 defined in section 4.5 of this chapter).

18 (17) Between policy renewal dates, unilaterally canceling an
19 individual's coverage under an individual or group health
20 insurance policy solely because of the individual's medical or
21 physical condition.

22 (18) Using a policy form or rider that would permit a cancellation
23 of coverage as described in subdivision (17).

24 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
25 vehicle insurance rates.

26 (20) Violating IC 27-8-21-2 concerning advertisements referring
27 to interest rate guarantees.

28 (21) Violating IC 27-8-24.3 concerning insurance and health plan
29 coverage for victims of abuse.

30 (22) Violating IC 27-8-26 concerning genetic screening or testing.

31 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
32 insurance producers.

33 (24) Violating IC 27-1-38 concerning depository institutions.

34 **(25) Violating IC 27-2-21 concerning use of credit**
35 **information."**

36 Page 7, line 10, after "to" insert":

37 **(1) a personal insurance policy application that is submitted;**
38 **or**

- 1 **(2)".**
- 2 Page 7, line 11, delete "renewed" and insert "**renewed;**".
- 3 Page 7, line 11, beginning with "after" begin a new line blocked left.
- 4 Page 7, line 11, delete "June 30, 2003." and insert "**December 31,**
- 5 **2003."**
- 6 Renumber all SECTIONS consecutively.
(Reference is to HB 1213 as introduced.)

and when so amended that said bill do pass.

Representative Fry